

No. 6/ 37 /DPNP

Jakarta, 10 September, 2004

CIRCULAR LETTER

to

ALL COMMERCIAL BANKS  
IN INDONESIA

Subject : Assessment and Imposition of Sanctions in regard to the Application of Know Your Customer Principles and Other Requirements Pertaining to the Law on Money Laundering Crime

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In regard to the promulgation of Act Number 15 of 2002 (State Gazette of the Republic of Indonesia Year 2002 Number 30, Supplement to the State Gazette of the Republic of Indonesia Number 4191) concerning Money Laundering Crime as amended by Act Number 25 of 2003 (State Gazette of the Republic of Indonesia Year 2003 Number 108, Supplement to the State Gazette Number 4324), hereinafter referred to as the AML Law, Bank Indonesia Regulation Number 3/10/PBI/2001 concerning Application of Know Your Customer Principles (State Gazette of the Republic of Indonesia Year 2001 Number 78, Supplement to the State Gazette of the Republic of Indonesia Number 4107) as since amended several times most recently by Bank Indonesia Regulation Number 5/21/PBI/2003 dated October 17, 2003 (State Gazette of the Republic of Indonesia Year 2003 Number 111, Supplement to the State Gazette of the Republic of Indonesia Number 4325) hereinafter referred to as the KYC Regulation, and Bank Indonesia Regulation Number 6/10/PBI/2004 dated April 12, 2004, concerning the Rating System for Commercial Banks (State Gazette of the Republic of Indonesia Year 2004 Number 38, Supplement to the State Gazette of the Republic of Indonesia Number 4382), Bank Indonesia deems it necessary to evaluate the application of know your customer principles and other requirements pertaining to the AML Law and to impose sanctions on violations by Commercial Banks in order to ensure the compliance of Commercial Banks

with know your customer principles and other requirements pertaining to the AML Law, subject to the following provisions:

#### **I. OBJECTIVES AND METHOD OF ASSESSMENT**

1. The purpose of assessment on the application of know your customer principles and other requirements pertaining to the AML Law (hereinafter referred to as Application of KYC and the AML Law) is to obtain a comprehensive view of the adequacy and effectiveness of application of KYC and the AML Law at each Commercial Bank. The comprehensive view of the adequacy and effectiveness of application of KYC and the AML Law is essential to ascertain the level of compliance of Commercial Banks and to identify any corrective actions that may be needed.
2. The assessment shall be conducted in qualitative method on the risk management factors of the application of KYC and the AML Law for the reason that the assessment of these factors can provide a comprehensive view of the application of KYC and the AML Law by the Commercial Bank concerned.
3. Assessment shall be based of the results of examination conducted by Bank Indonesia.

#### **II. SCOPE AND CRITERIA FOR ASSESSMENT**

1. Assessment on the application of KYC and the AML Law at Commercial Banks covers 5 (five) risk management factors in the application of KYC and the AML Law as follows:
  - a. Active Management Oversight;
  - b. Policies and Procedures;
  - c. Internal Control and Internal Audit Function;
  - d. Management Information System; and
  - e. Human Resources and Training.
2. The assessment criteria for each of these factors are presented in the Appendix to this Circular Letter.
3. The assessment result (rating) shall be issued for each of these factors on a rating scale of 1 (one) through 5 (five) according to the criteria referred to in number 2.
4. Based on the rating of each of these factors, the final rating for application of KYC and the AML Law shall be determined in

qualitative method on a rating scale of 1 (one) through 5 (five) as follows:

- a. A rating of 1 (one) indicates Excellent application of KYC and the AML Law for the reason that the application is assessed as more than adequate and highly effective in mitigating risks associated with money laundering and ensuring legal compliance, including but not limited to reporting of suspicious transactions and cash transactions to the Financial Transaction Reporting and Analysis Center (PPATK);
- b. A rating of 2 (two) indicates Good application of KYC and the AML Law for the reason that the application is assessed as adequate and effective in mitigating risks associated with money laundering and ensuring legal compliance, including but not limited to reporting of suspicious transactions and cash transactions to the PPATK;
- c. A rating of 3 (three) indicates Fairly Good application of KYC and the AML Law for the reason that the application is assessed as reasonably adequate and reasonably effective in mitigating risks associated with money laundering and legal compliance, including but not limited to reporting of suspicious transactions and cash transactions to the PPATK, despite significant weaknesses;
- d. A rating of 4 (four) indicates Sub-standard application of KYC and the AML Law for the reason that the application is assessed as not adequate and effective enough in mitigating risks associated with money laundering and ensuring legal compliance, including but not limited to reporting of suspicious transactions and cash transactions to the PPATK, and has significant weaknesses;
- e. A rating of 5 (five) indicates Poor application of KYC and the AML Law for the reason that the application is assessed as completely inadequate and ineffective in mitigating risks associated with money laundering and ensuring legal compliance, including but not limited to reporting of suspicious transactions and cash transactions to the PPATK.

### III. FOLLOW UP TO THE RATING

1. The rating on the application of KYC and the AML Law shall be calculated into the soundness rating of Commercial Banks under the management factor.

2. If the rating on the application of KYC and the AML Law is 5 (five), the rating shall not only be calculated into the soundness rating for the Commercial Bank under the management factor as referred to in number 1, but also tied to the imposition of administrative sanctions in the form of downgrading of the soundness rating of the Commercial Bank and order for dismissal of the management of the Commercial Bank under the mechanism of fit and proper test as stipulated in numbers IV.2.b) and d).

#### IV. IMPOSITION OF SANCTIONS

1. In accordance with Article 18 paragraph (1) and paragraph (1a) of the KYC Regulation, Bank Indonesia shall impose administrative sanctions for violations of Article 13 letter b and letter c and Article 14 paragraph (1) of the KYC Regulation as follows:
  - a) A financial penalty of Rp 1,000,000.00 (one million rupiahs) for each day of delay up to a maximum of Rp 30,000,000.00 (thirty million rupiahs) shall be levied in the event that:
    - 1) the Commercial Bank is late in submission of Guidelines for Application of Know Your Customer Principles and/or amendments thereto to Bank Indonesia;
    - 2) the Commercial Bank is late in submission of a suspicious transaction report to PPATK.
  - b) A financial penalty of Rp 50,000,000.00 (fifty million rupiahs) shall be levied in the event that:
    - 1) the Commercial Bank fails to submit Guidelines for Application of Know Your Customer Principles and/or amendments thereto to Bank Indonesia;
    - 2) the Commercial Bank fails to submit a suspicious transaction report to PPATK.

The financial penalty for a Commercial Bank late in submission or failing to submit a suspicious transaction report shall be imposed after Bank Indonesia has received notification and/or confirmation from PPATK.

2. In accordance with Article 18 paragraph (2) of the KYC Regulation, Bank Indonesia shall impose administrative sanctions for violations of Article 2, Article 3, Article 4 paragraph (1), paragraph (2), and paragraph (3), Article 6, Article 7 paragraph (1), Article 8, Article 9, Article 10, Article 11, Article 12, Article 13 letter a, letter d, letter e, letter f, and letter g, and Article 16 of the KYC Regulation as follows:

a) Written Warning

Written warning shall be issued if the Commercial Bank violates one or more of the provisions in the articles of the Bank Indonesia Regulation described above.

b) Downgrading of Commercial Bank Soundness Rating

The soundness rating of the Commercial Bank will be downgraded one level if the Commercial Bank violates the provisions set forth in the articles of the KYC Regulation described above and the final rating for the application of KYC and the AML Law is 5 (five) as referred to in number II.4.e.

The soundness rating of the Commercial Bank is defined as:

- 1) Composite Rating as referred to in Bank Indonesia Regulation Number 6/10/PBI/2004 concerning the Rating System for Commercial Banks, for Commercial Banks conducting conventional business;
- 2) Soundness rating as referred to in Decree of the Management of Bank Indonesia Number 30/11/KEP/DIR concerning Rating Procedure for Commercial Banks as amended by Decree of the Management of Bank Indonesia Number 30/277/KEP/DIR, for Commercial Banks conducting business based on Sharia principles.

The downgrading of the Commercial Bank soundness rating shall remain in force until corrective actions are taken by the Commercial Bank and evidence is provided of these corrective actions that can be convincingly verified by Bank Indonesia.

c) Freezing of Certain Business Activities

Certain business activities will be frozen if in the opinion of Bank Indonesia these activities constitute high risk business in respect of money laundering and the Commercial Bank fails to provide for adequate application of know your customer principles for these activities with the result that these business activities can be potentially exploited or are reasonably suspected of being exploited as vehicles for money laundering.

d) Order for Dismissal of the Management of the Commercial Bank

Order for dismissal of the management of the Commercial Bank will be issued under the fit and proper test mechanism in the event that:

- 1) the Management of the Commercial Bank fails to take the necessary measures to ensure compliance of the Commercial Bank with the KYC provisions and the final rating for the application of KYC and the AML Law is 5 (five), or
- 2) the Management of the Commercial Bank is involved in money laundering crime.

#### V. CONCLUDING PROVISIONS

The provision for calculation of the rating for the application of KYC and the AML Law into Commercial Bank soundness rating as referred to in number III.1. shall become effective for Commercial Bank soundness rating commencing with the position for December 2004.

This Circular Letter shall come into force on September 10, 2004.

For the public to be informed, it is ordered that this Circular Letter be promulgated in the State Gazette of the Republic of Indonesia.

BANK INDONESIA

Signed

Maman H. Somantri  
Deputy Governor